

Walldesign, Inc. and International Union of Painters and Allied Trades District Council 15, Local 159, affiliated with International Union of Painters and Allied Trades of the United States and Canada (IUPAT), AFL-CIO. Cases 28-CA-071847 and 28-CA-078200

January 10, 2013

DECISION AND ORDER

BY CHAIRMAN PEARCE AND MEMBERS GRIFFIN
AND BLOCK

The Acting General Counsel seeks summary judgment in this case on the ground that the Respondent's answer admits all of the allegations of the consolidated complaint. Upon charges and an amended charge filed by International Union of Painters and Allied Trades District Council 15, Local 159, affiliated with International Union of Painters and Allied Trades of the United States and Canada (IUPAT), AFL-CIO (the Union), the Acting General Counsel issued the consolidated complaint on May 31, 2012, against Walldesign, Inc. (the Respondent), alleging that the Respondent has violated Section 8(a)(5) and (1) of the Act. The Respondent filed an answer on November 1, 2012, admitting all of the allegations of the consolidated complaint.¹

On November 7, 2012, the Acting General Counsel filed with the Board a Motion for Summary Judgment. Thereafter, on November 9, 2012, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Union filed a joinder supporting the Acting General Counsel's motion and requesting additional remedies. The Respondent filed no response. The allegations in the motion are therefore undisputed.

Ruling on Motion for Summary Judgment

As stated above, the Respondent's answer admits all of the allegations in the consolidated complaint. The Respondent has not raised any defenses and has not responded to the notice to show cause. Accordingly, we find that the allegations of the complaint are true and we grant the Acting General Counsel's Motion for Summary Judgment.²

On the entire record, the National Labor Relations Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times the Respondent has been a corporation with an office and place of business in Las Vegas, Nevada, and has been engaged as a drywall contractor in the construction industry doing residential construction.

In conducting its operations during the 12-month period ending January 4, 2012, the Respondent performed services valued in excess of \$50,000 in States other than the State of Nevada.

The Respondent admits, and we find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times the following individuals held the positions set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of the Respondent within the meaning of Section 2(13) of the Act:

Michael Bello — Chief Executive Officer

Steve Huntington — President

David Grogg — Vice President of Operations

At all material times the Respondent's attorney has been an agent of the Respondent within the meaning of Section 2(13) of the Act.

The following employees of the Respondent constitute a unit (the unit) appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time Light Commercial Journeymen, Residential/Multi Family Construction Journeymen, Apprentices, and Light Commercial and Residential Helpers/Pre-Apprentices employed by Respondent and performing work in Clark County, Nevada, as described by the Memorandum of Understanding between Respondent and the Union dated December 10, 2009 (the Agreement), EXCLUDING office clerical employees, professional employees, guards and supervisors as defined by the Act.

About December 10, 2009, the Respondent, an employer engaged in the construction industry, entered into the Agreement whereby it agreed to be bound by the Painters & Decorators Master Agreement (the Master Agreement) between the Union and the Painting and Decorating Contractors of America, Southern Nevada

¹ The Respondent's answer stated that the Respondent was withdrawing an earlier answer, filed June 14, 2012.

² *Black Bear Mining*, 325 NLRB 960 (1998).

Chapter, effective from December 10, 2009, through June 30, 2012.

About December 10, 2009, the Respondent entered into the Master Agreement between the Union and the Painting and Decorating Contractors of America, Southern Nevada Chapter, effective from December 10, 2009, through June 30, 2011.

About July 1, 2011, the Master Agreement was automatically extended between the Respondent and the Union by the terms of the Master Agreement, and was effective from July 1, 2011, through June 30, 2012.

By entering into the Agreement and the Master Agreement, described above, the Respondent recognized the Union as the exclusive collective-bargaining representative of the unit without regard to whether the Union's majority had been established under Section 9(a) of the Act.

From about December 10, 2009, to at least June 30, 2012, based on Section 9(a) of the Act, the Union has been the limited exclusive collective-bargaining representative of the unit.³

Since about July 4, 2011, the Respondent has refused to continue in effect all the terms and conditions of the Agreement and the Master Agreement by failing to follow the wage, benefit, hiring hall, and other terms of the Agreement and the Master Agreement with respect to projects covered by the Agreement and the Master Agreement, including the Pacific Pines project and College Villas project.

The terms and conditions of employment described above are mandatory subjects for the purposes of collective bargaining.

The Respondent engaged in the conduct described above without the Union's consent.

Since about November 8, 2011, the Union has requested in writing that the Respondent furnish the Union with the following information:

From December 2009 to the current date, no later than the close of business day of Friday, November 23, 2011:

1. A complete list of all projects in area jurisdiction.

2. A complete list of employees who are currently employed or have been employed within the last calendar year, the date of hire for each employee, date of termination (if applicable), classification of each employee and the rate of wages being paid to each employee.

The information requested by the Union, as described above, is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the unit.

Since about November 8, 2011, the Respondent has failed and refused to furnish the Union with the information requested by it as described above.

Since about December 22, 2011, the Union has requested in writing that the Respondent furnish the Union with the following information:

1. Please provide a list of all jobs which your company has performed in Nevada for the period December 10, 2009 to present. The list should include the name of the job, the location, the period during which the job was performed and the names of the employees who performed bargaining unit work who worked on that job. This should include all jobs which were in progress as of that date of December 10, 2009, as well as all jobs which commenced after that date. The list should be current and up to date.
2. Please provide a list of all employees who worked doing bargaining unit work for the period December 10, 2009 to present. For each employee give the employee's name, address, rates of pay, classifications and dates of hire or termination including any reason why they were terminated.
3. Please provide a copy of all company benefit plans applicable to the employees in the bargaining unit.

The information requested by the Union, as described above, is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the unit.

Since about December 22, 2011, the Respondent has failed and refused to furnish the Union with the information requested by it as described above.

About December 29, 2011, the Respondent entered into a contract with Imperial Building Group, Inc. (Imperial) under which Imperial was to perform for the Respondent drywall and other construction work located at the Pacific Pines and College Villas projects.

The subjects set forth above relate to wages, hours, and other terms and conditions of employment of the unit and

³ The complaint alleges that the Respondent is a construction industry employer and that it granted recognition to the Union without regard to whether the Union had established majority status. Accordingly, we find that the relationship was entered into pursuant to Sec. 8(f) of the Act and that the Union is therefore the limited 9(a) representative of the unit employees for the period covered by the contract. See, e.g., *A.S.B. Cloture, Ltd.*, 313 NLRB 1012, 1012 fn. 2 (1994) (citing *Electri-Tech, Inc.*, 306 NLRB 707 fn. 2 (1992)), *enfd.* 979 F.2d 851 (6th Cir. 1992), and *John Deklewa & Sons*, 282 NLRB 1375 (1987), *enfd.* sub nom. *Iron Workers Local 3 v. NLRB*, 843 F.2d 770 (3d Cir. 1988), *cert. denied* 488 U.S. 889 (1988).

are mandatory subjects for the purposes of collective bargaining.

The Respondent engaged in the conduct described above without prior notice to the Union and without affording the Union an opportunity to bargain with the Respondent with respect to this conduct and the effects of this conduct and without first bargaining with the Union to a good-faith impasse.

Since about January 12, 2012, the Union has requested in writing that the Respondent furnish it with the information in the letter attached to the consolidated complaint as Exhibit A.⁴

The information requested by the Union, as described above, is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the unit.

Since about January 12, 2012, the Respondent has failed and refused to furnish the Union with the information requested by it as described above.

CONCLUSION OF LAW

By the conduct described above, the Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act in violation of Section 8(a)(5) and (1) of the Act. The Respondent's unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent violated Section 8(a)(5) and (1) by failing and refusing to continue in effect all the terms and conditions of the Agreement and the Master Agreement by failing to follow the wage, benefit, hiring hall, and other terms of those Agreements with respect to projects covered by them, including the Pacific Pines project and College Villas project, we shall order the Respondent to honor and comply with all the terms and conditions of the Agreement and the Master Agreement, and any automatic renewal or extension of them, with respect to projects covered by them, including the Pacific Pines project and College Villas project. We shall also order the Respondent to make the unit employees whole for any loss of earnings and other benefits they may have suffered as a result of the Respondent's unlawful con-

duct. Such amounts shall be computed in accordance with *Ogle Protection Service*, 183 NLRB 682 (1970), enf'd. 444 F.2d 502 (6th Cir. 1971), with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB 6 (2010). In the event that the Agreement and the Master Agreement provide for contributions to benefit funds with respect to projects covered by those Agreements, including the Pacific Pines project and College Villas project, we shall order the Respondent to make all contractually-required contributions to these funds that they have failed to make since July 4, 2011, including any additional amounts due the funds on behalf of unit employees in accordance with *Merryweather Optical Co.*, 240 NLRB 1213, 1216 fn. 7 (1979).⁵ Additionally, the Respondent shall reimburse the unit employees for any expenses ensuing from its failure to make the required contributions, as set forth in *Kraft Plumbing & Heating*, 252 NLRB 891, 891 fn. 2 (1980), enf'd. mem. 661 F.2d 940 (9th Cir. 1981). Such amounts are to be computed in the manner set forth in *Ogle Protection Service*, supra, with interest as prescribed in *New Horizons for the Retarded*, supra, and *Kentucky River Medical Center*, supra.

Further, having found that the Respondent violated Section 8(a)(5) and (1) by entering into a contract with Imperial Building Group, Inc., for the performance of drywall and other construction work located at the Pacific Pines and College Villas projects, without prior notice to the Union and without affording the Union an opportunity to bargain with respect to the Respondent's conduct or the effects of this conduct, we shall order the Respondent to rescind this unilateral change and restore the status quo until such time as the Respondent and the Union have bargained in good faith to an agreement or impasse on the terms and conditions of employment of the unit employees. In addition, we shall order the Respondent to make the unit employees whole for any loss of earnings and other benefits they may have suffered as a result of the unlawful change, in the manner set forth in *Ogle Protection Service*, supra, with interest as prescribed in *New Horizons for the Retarded*, supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra.

Additionally, in accordance with our recent decision in *Latino Express, Inc.*, 359 NLRB 518 (2012), we shall

⁴ The Union's January 12, 2012 letter is incorporated into this Decision and Order as "Appendix B."

⁵ To the extent that an employee has made personal contributions to a benefit or other fund that have been accepted by the fund in lieu of the Respondent's delinquent contributions during the period of the delinquency, the Respondent will reimburse the employee, but the amount of such reimbursement will constitute a setoff to the amount that the Respondent otherwise owes the fund.

order the Respondent to compensate the unit employees for the adverse tax consequences, if any, of receiving lump-sum backpay awards and to file a report with the Social Security Administration allocating the backpay awards to the appropriate calendar quarters for each unit employee.

Finally, having found that the Respondent violated Section 8(a)(5) and (1) by failing and refusing to furnish the Union with necessary and relevant information it requested on November 8 and December 22, 2011, and January 12, 2012, we shall order the Respondent to provide the Union with the requested information.⁶

ORDER

The National Labor Relations Board orders that the Respondent, Walldesign, Inc., Las Vegas, Nevada, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to bargain collectively and in good faith with International Union of Painters and Allied Trades District Council 15, Local 159, affiliated with International Union of Painters and Allied Trades of the United States and Canada (IUPAT), AFL-CIO (the Union), as the exclusive collective-bargaining representative of the employees in the following unit during the term of the Agreement and the Master Agreement effective July 1, 2011, through June 30, 2012, and any automatic extension of the agreements. The unit is:

All full-time and regular part-time Light Commercial Journeymen, Residential/Multi Family Construction Journeymen, Apprentices, and Light Commercial and Residential Helpers/Pre-Apprentices employed by the Respondent and performing work in Clark County, Nevada, as described by the Memorandum of Understanding between the Respondent and the Union dated December 10, 2009 (the Agreement), EXCLUDING office clerical employees, professional employees, guards and supervisors as defined in the Act.

(b) Failing to continue in effect all of the terms and conditions of the Agreement and the Master Agreement effective July 1, 2011, through June 30, 2012, and any

automatic renewal or extension of them, including by failing to follow the wage, benefit, hiring hall, and other terms of those Agreements with respect to projects covered by them, including the Pacific Pines project and College Villas project.

(c) Unilaterally entering into a contract for the performance of drywall and other construction work without affording the Union notice and an opportunity to bargain with respect to such conduct and the effects of such conduct and without first bargaining with the Union to a good-faith impasse.

(d) Failing and refusing to furnish the Union with requested information that is necessary and relevant to the performance of its duties as exclusive collective-bargaining representative of the employees in the unit.

(e) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Honor and abide by the terms and conditions of the Agreement and the Master Agreement effective July 1, 2011, through June 30, 2012, and any automatic extensions of them, including by following the wage, benefit, hiring hall, and other terms of those Agreements with respect to projects covered by them, including the Pacific Pines project and College Villas project.

(b) Rescind the unilateral contract with Imperial Building Group, Inc. for the performance of drywall and other construction work located at the Pacific Pines and College Villas projects, and restore the status quo until such time as the Respondent and the Union have bargained in good faith to an agreement or impasse on the terms and conditions of employment of the unit employees.

(c) Make whole the unit employees for any loss of earnings and other benefits they may have suffered as a result of the Respondent's unlawful conduct, with interest, in the manner set forth in the remedy section of this decision.

(d) Compensate the unit employees for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and file a report with the Social Security Administration allocating the backpay awards to the appropriate calendar quarters for each unit employee.

(e) Furnish the Union with the information it requested by letters dated November 8 and December 22, 2011, and January 12, 2012.

(f) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel rec-

⁶ The Union has requested that the Board additionally order the Respondent to post the appropriate Board notices for the time period between the issuance of the complaint and the date the notices are actually posted; to mail the notices to the last known address of all employees employed by the employer from 6 months of the filing of the charge until the notices are mailed; and to post, at its own expense, the findings in the Board's decision along with notices. We deny the request because the Union has not shown that the Board's traditional remedies are insufficient to remedy the Respondent's violations. See *Bruce Packing Co.*, 357 NLRB 1084, 1084 1 fn. 4 (2011); *First Legal Support Services*, 342 NLRB 350, 350 fn. 6 (2004).

ords and reports, and all other records, including any electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(g) Within 14 days after service by the Region, post at its facility in Las Vegas, Nevada, copies of the attached notice marked "Appendix A."⁷ Copies of the notice, on forms provided by the Regional Director for Region 28, after being signed by the Respondent's authorized representatives, shall be posted and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, copies of the notice to all current employees and former employees employed by the Respondent at any time since about July 4, 2011.

(h) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX A

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

- Form, join, or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities.

⁷ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

WE WILL NOT fail and refuse to bargain collectively and in good faith with International Union of Painters and Allied Trades District Council 15, Local 159, affiliated with International Union of Painters and Allied Trades of the United States and Canada (IUPAT), AFL-CIO (the Union), as the exclusive collective-bargaining representative of the employees in the following unit during the term of the Agreement and the Master Agreement effective July 1, 2011, through June 30, 2012, and any automatic extension of the agreements. The unit is:

All full-time and regular part-time Light Commercial Journeymen, Residential/Multi Family Construction Journeymen, Apprentices, and Light Commercial and Residential Helpers/Pre-Apprentices employed by us and performing work in Clark County, Nevada, as described by the Memorandum of Understanding between us and the Union dated December 10, 2009 (the Agreement), EXCLUDING office clerical employees, professional employees, guards and supervisors as defined in the Act.

WE WILL NOT fail to continue in effect all of the terms and conditions of the Agreement and the Master Agreement effective July 1, 2011, through June 30, 2012, and any automatic renewal or extension of them, including by failing to follow the wage, benefit, hiring hall, and other terms of those Agreements with respect to projects covered by them, including the Pacific Pines project and College Villas project.

WE WILL NOT unilaterally enter into a contract for the performance of drywall and other construction work without affording the Union notice and an opportunity to bargain with us with respect to such conduct and the effects of such conduct and without first bargaining with the Union to a good-faith impasse.

WE WILL NOT fail and refuse to furnish the Union with requested information that is necessary and relevant to the performance of its duties as exclusive collective-bargaining representative of the employees in the unit.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL honor and abide by the terms and conditions of the Agreement and Master Agreement, effective July 1, 2011, through June 30, 2012, and any automatic renewal or extension of them, including by following the wage, benefit, hiring hall, and other terms of those Agreements with respect to projects covered by them, including the Pacific Pines project and College Villas project.

WE WILL rescind the unilateral contract with Imperial Building Group, Inc. for the performance of drywall and other construction work located at the Pacific Pines and College Villas projects, and restore the status quo until such time as we have bargained in good faith with the Union to an agreement or impasse on the terms and conditions of employment of the unit employees.

WE WILL make our unit employees whole for any loss of earnings and other benefits they may have suffered as a result of our unlawful conduct, with interest.

WE WILL compensate our unit employees for the adverse tax consequences, if any, of receiving lump-sum

backpay awards, and WE WILL file a report with the Social Security Administration allocating the backpay awards to the appropriate calendar quarters for each unit employee.

WE WILL furnish the Union with the information it requested by letters dated November 8 and December 22, 2011, and January 12, 2012.

WALLDESIGN, INC.

APPENDIX B

STEWART WEINBERG
DAVID A. ROSENFELD
WILLIAM A. SOKOL
VINCENT A. HARRINGTON, JR.
W. DANIEL BOONE
BLYTHE MICKELSON
BARRY E. HINKLE
JAMES BUTKOWSKI
SANDRA RAE BENSON
CHRISTIAN L. RAISNER
JAMES J. WESSER
THEODORE FRANKLIN
ANTONIO RUIZ
MATTHEW J. GAUGER
ASHLEY K. IKEDA
LINDA BALDWIN JONES
PATRICIA A. DAVIS
ALAN G. CROWLEY
KRISTINA L. HILLMAN
EMILY P. RICH
BRUCE A. HARLAND
CONCEPCION E. LOZANO-BATISTA
GAREN P. BENCER

WEINBERG, ROGER & ROSENFELD
A PROFESSIONAL CORPORATION

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NEED CORRECT LETTERHEAD

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LESLIE V. FREEMAN *****
EZEKIEL D. CARDER *****
YURI Y. GOTTESMAN

PATRICIA M. GATES, Of Counsel
ROBERTA D. PERKINS, Of Counsel
RICHARD T. ORLURY, Of Counsel
NINA FENDEL, Of Counsel

* Also admitted in Arizona
** Admitted in Hawaii
*** Also admitted in Nevada
**** Also admitted in Illinois
***** Also admitted in Missouri
***** Also admitted in New York

January 12, 2012

Marc J. Winthrop
Winthrop Couchot
660 Newport Center Drive, Suite 400
Newport Beach, CA 92660

Re: Alter Ego and/or Successor Relationship between Walldesign, Inc. and Imperial Building Group

Dear Mr. Winthrop:

Our office represents Painters District Council No 15 as you aware from our appearance in the bankruptcy court. Walldesign (referred to as "Walldesign") has executed and is bound by an agreement with the Union. The Union has obtained substantial evidence that Imperial Building Group ("Imperial") is a successor and/or alter ego to Walldesign. Indeed Mr. Bello's declaration filed in the bankruptcy court states as much. For purposes of investigating the Union's position and in order to administer the collective bargaining agreement, please provide the following information below. For purposes of this request, Imperial is to be considered the non-union company, although we believe that it is in fact a union company and is bound to the current agreement.

Further I sent your client a previous information request which is enclosed. He responded by sending it back to me by fax attaching a copy of the bankruptcy petition. Apparently he thinks that the filing of the bankruptcy avoids his obligations under the National Labor Relations Act. That is not correct and I am asking that your client provide this information immediately.

This request is for purposes of administering the agreement.

The information sought is for the period of January 1, 2011 to present.

We would like this information within 10 days for both Walldesign and Imperial.

1. Copies of any and all documents relating to any loans or extensions of credit to and from both WALLDESIGN and IMPERIAL.
2. Copies of all contracts and bids for contracts, with owners for the construction, alteration, or repair of any structure.
3. Copies of all contracts and bids for contracts, with subcontractors for the construction, alteration, or repair of any structure.

Exhibit A

LOS ANGELES OFFICE
3435 Wilshire Boulevard, Suite 620
Los Angeles, CA 90010-1907
TEL 213.380.2344 FAX 213.381.1088

SACRAMENTO OFFICE
428 J Street, Suite 620
Sacramento, CA 95814-2341
TEL 916.443.6600 FAX 916.442.0244

HONOLULU OFFICE
1089 Alakea Street, Suite 1602
Honolulu, HI 96813-4500
TEL 808.528.8880 FAX 808.528.8881

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4. Copies of any and all licenses or certificates required by federal, state, county, or municipal law.
5. Certificates of registration or ownership of any motor vehicle or equipment.
6. Copies of any and all bills of sale of any motor vehicles or equipment.
7. Copies of any and all leases for rental of any business premises and/or equipment.
8. Copies of any and all contracts of insurance.
9. Copies of any and all applications of insurance.
10. Copies of any and all premium statements for insurance.
11. Copies of any and, all building permits.
12. Copies of any and all licenses or leases for citizen band, VHR, any other radio or telephone equipment.
13. Copies of all invoices for purchases of materials, supplies and equipment rentals for all jobs worked in the past year.
14. Copies of all invoices to customers and clients for all jobs worked in the past year.
15. Copies of all purchase orders for the past year.
16. Copies of all telephone bills, electric bills, and any other utility bills for the past year.
17. Copies of all logs of foremen and supervisors.
18. Copies of all diaries and appointment books for all of the corporate officers.
19. Copies of all employee time cards or time sheets.
20. Copies of all job record cards.
21. Cash disbursement journals.
22. Accounts payable journals.
23. General Ledgers.
24. Cash receipts journals.
25. Employer's quarterly tax return, IRS Form #941.
26. State unemployment compensation forms showing contributions made.

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27. Copies of all financial statements.
28. Copies of all corporate minute books, stock books, and all other corporate records.
29. Copies of all bank statements and cancelled checks.
30. Copies of all correspondence with any and all insurance companies, banks, lending institutions, and accounting firms.
31. Any and all applications to surety or bonding companies for performance, labor or payment bonds for any construction project.
32. Corporate income tax returns.
33. Depreciation schedules.
34. Documentation of all loans to outside creditors.
35. Copies of all paid bills.
36. Accounts receivable journals.
37. Sales journals.
38. Purchase journals.
39. Summary payroll journals.
40. Personal income tax returns of all corporate officers.
41. Any organizational chart for IMPERIAL, and WALLDESIGN, showing management's functions and authority within the company.

For both companies provide the following:

42. A. Describe the type of business in which IMPERIAL engages.
B. Describe the type of business in which WALLDESIGN engages.
43. A. Define the geographic area in which IMPERIAL does business.
B. Define the geographic area in which WALLDESIGN does business.
44. A. State the business address(es) and identify all office locations of IMPERIAL.
B. State the business address(es) and identify all office locations of WALLDESIGN.
45. A. Identify IMPERIAL post office box(es) by number and location.

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Marc J Winthrop
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- B. Identify WALLDESIGN post office box(es) by number and location.
- 46. A. Identify IMPERIAL business phone number(s), fax number(s) and directory listings(s).
B. Identify WALLDESIGN business phone number(s), fax number(s) and directory listings(s).
- 47. A. Identify the banking institution, branch and location, and account number(s) of IMPERIAL bank account(s).
B. Identify the banking institution, branch and location, and account number(s) of WALLDESIGN bank account(s).
- 48. A. Identify the banking institution, branch and location, and account number(s) of IMPERIAL payroll account(s) not identified above.
B. Identify the banking institution, branch and location, and account number(s) of WALLDESIGN payroll account(s) not identified above.
- 49. A. Identify where and by whom IMPERIAL accounting records are kept. B. Identify where and by whom WALLDESIGN accounting records are kept.
- 50. A. Identify IMPERIAL principal accountant.
B. Identify WALLDESIGN principal accountant.
- 51. A. Identify where and by whom IMPERIAL corporate records are kept.
B. Identify where and by whom WALLDESIGN corporate records are kept.
- 52. A. Identify where and by whom IMPERIAL other business records are kept.
B. Identify where and by whom WALLDESIGN other business records are kept.
- 53. A. Identify IMPERIAL principal bookkeeper.
B. Identify WALLDESIGN principal bookkeeper.
- 54. A. Identify IMPERIAL principal payroll preparer.
B. Identify WALLDESIGN principal payroll preparer.
- 55. A. Identify IMPERIAL contractor license number for states in which it engages in business of construction.

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- B. Identify WALLDESIGN contractor license number for states in which it engages in business of construction.
- 56. A. Identify the carrier and policy number for IMPERIAL workers' compensation insurance.
B. Identify the carrier and policy number for WALLDESIGN workers' compensation insurance.
- 57. Identify the carrier and policy number for IMPERIAL other health insurance program(s).
- 58. A. Identify IMPERIAL federal taxpayer identification number.
B. Identify IMPERIAL federal taxpayer identification number.
C. Identify where and by whom IMPERIAL federal tax returns are kept.
D. Identify where and by whom IMPERIAL federal tax returns are kept.
- 59. A. Identify IMPERIAL other federal or state taxpayer identification numbers.
B. Identify IMPERIAL other federal or state taxpayer identification numbers.
C. Identify where and by whom IMPERIAL other federal and state tax returns are kept.
D. Identify where and by whom IMPERIAL other federal and state tax returns are kept.
- 60. Identify amount(s) involved, reason(s) for, and dates of transfer of any funds between IMPERIAL and WALLDESIGN.
- 61. A. Identify source(s) and amount(s) of CE lines of credit.
B. Identify source(s) and amount(s) of IMPERIAL lines of credit.
- 62. A. Identify amount(s) involved and date(s) when IMPERIAL has operated its capital with a guarantee of performance by WALLDESIGN.
B. Identify amount(s) involved and date(s) when WALLDESIGN has operated its capital with a guarantee of performance by IMPERIAL.
- 63. A. Identify business(es) to whom IMPERIAL rents, leases, or otherwise provides office space.
B. Identify business(es) to whom IMPERIAL rents, leases, or otherwise provides office space.

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64. Identify the calendar period and terms by which IMPERIAL provides office space to WALLDESIGN, or is provided with office space by WALLDESIGN.
65.
 - A. Identify IMPERIAL buildings and/or office suppliers.
 - B. Identify IMPERIAL buildings and/or office suppliers.
66. Identify by item(s) purchased, date(s) of purchase, and dollar volume of purchase(s) those building and/or office supplies not purchases separately by IMPERIAL and WALLDESIGN.
67.
 - A. Identify business(es) that use IMPERIAL (1) tools or (2) equipment.
 - B. Identify business(es) that use IMPERIAL (1) tools or (2) equipment.
68.
 - A. Identify business(es) to whom IMPERIAL sells, rents, or leases its (1) operating equipment, (2) office equipment, (3) construction equipment, or (4) tools.
 - B. Identify business(es) to whom IMPERIAL sells, rents, or leases its (1) operating equipment, (2) office equipment, (3) construction equipment, or (4) tools.
69.
 - A. Identify business(es) from whom IMPERIAL buys, rents, or leases its equipment.
 - B. Identify business(es) from whom IMPERIAL buys, rents, or leases its equipment.
70.
 - A. Identify those equipment transactions that IMPERIAL arranges by written agreement.
 - B. Identify those equipment transactions that IMPERIAL arranges by written agreement.
71. Regarding equipment transactions between IMPERIAL and WALLDESIGN, identify the purchase, rental, or lease rate, equipment involved, calendar period, and dollar volume of each transaction.
72. Regarding equipment transactions between IMPERIAL and business(es) separate from WALLDESIGN, identify the purchase, rental, or lease rate, equipment involved, calendar period, and dollar volume of each transaction.
73. Regarding equipment transactions between WALLDESIGN and business(es) separate from IMPERIAL, identify the purchase, rental, or lease rate, equipment involved, calendar period, and dollar volume of each transaction.
74. Identify those of the following services that are provided to IMPERIAL by or at WALLDESIGN.
 - A. Administrative

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- B. Bookkeeping
 - C. Clerical
 - D. Detailing
 - E. Drafting
 - F. Estimating
 - G. Managerial
 - H. Patternmaking
 - I. Sketching
 - J. Other
75. Identify those of the following services that are provided to WALLDESIGN by or at IMPERIAL.
- A. Administrative
 - B. Bookkeeping
 - C. Clerical
 - D. Detailing
 - E. Drafting
 - F. Estimating
 - G. Managerial
 - H. Patternmaking
 - I. Sketching
 - J. Other
76. A. Identify where IMPERIAL advertises for customer business.
- B. Identify where WALLDESIGN advertises for customer business.
77. A. Identify IMPERIAL customers.
- B. Identify WALLDESIGN customers.

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78. A. Identify customers IMPERIAL has referred to WALLDESIGN.
 B. Identify customers WALLDESIGN has referred to IMPERIAL.
79. What customers of IMPERIAL are now or were formerly customers of WALLDESIGN?
80. A. Regarding customers identifies above common to IMPERIAL and
 WALLDESIGN, state the calendar period, and dollar volume of work performed by
 IMPERIAL for each customer.
 B. Regarding customers identifies above common to IMPERIAL and
 WALLDESIGN, state the calendar period, and dollar volume of work performed
 by WALLDESIGN for each customer.
81. A. State the average dollar volume of business per job performed by IMPERIAL.
 B. State the average dollar volume of business per job performed by
 WALLDESIGN.
82. A. Does IMPERIAL negotiate jobs to obtain work?
 B. Does WALLDESIGN negotiate jobs to obtain work?
83. A. Does IMPERIAL bid jobs to obtain work?
 B. Does WALLDESIGN bid jobs to obtain work?
84. A. Identify those persons who bid and/or negotiate IMPERIAL work.
 B. Identify those persons who bid and/or negotiate WALLDESIGN work.
85. A. State the dollar volume minimum and or maximum (if any) as established by law
 or regulation, that IMPERIAL may bid on public works projects.
 B. State the dollar volume minimum and or maximum (if any) as established by law
 or regulation, that WALLDESIGN may bid on public works projects.
86. Identify by customer, calendar period, and dollar volume any jobs on which IMPERIAL
 and WALLDESIGN have bid competitively.
87. Identify by customer, calendar period, and dollar volume any work which IMPERIAL
 has subcontracted to, or received by subcontractor from, WALLDESIGN.
88. Identify subcontract work arranged by written agreement between IMPERIAL and
 WALLDESIGN.
89. A. State the reason for each subcontract let by IMPERIAL.

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- B. State the reason for each subcontract let by WALLDESIGN.
90. Identify by customer, calendar period, and dollar volume any projects on which IMPERIAL succeeded, or been succeeded, by WALLDESIGN.
91. A. Identify work IMPERIAL performs on WALLDESIGN.
B. Identify work WALLDESIGN performs on IMPERIAL.
92. A. Identify where IMPERIAL advertises for employee hires.
B. Identify where WALLDESIGN advertises for employee hires.
93. A. Identify by job title or craft position the average number of employees employed by IMPERIAL per pay period.
B. Identify by job title or craft position the average number of employees employed by WALLDESIGN per pay period.
94. A. Identify the skills that IMPERIAL employees possess.
B. Identify the skills that WALLDESIGN employees possess.
95. A. Identify where IMPERIAL employee report for work.
B. Identify where WALLDESIGN employee report for work.
96. A. Identify by job title or craft position and respective employment those employees of IMPERIAL who are or have been employees at WALLDESIGN.
B. Identify by job title or craft position and respective employment those employees of WALLDESIGN who are or have been employees at IMPERIAL.
97. Identify by job title or craft position and transfer dates those employees otherwise transferred between IMPERIAL and WALLDESIGN.
98. Identify projects of each company on which these employees were working at the time of transfer.
99. A. Identify IMPERIAL (1) supervisors, (2) job superintendents, and (3) forepersons or other supervisory persons with authority to hire, transfer, suspend, lay-off, recall promote, discharge, assign, reward, or discipline other employees or responsible to direct employees, or to adjust their grievances or effectively to recommend such action.
B. Identify WALLDESIGN (1) supervisors, (2) job superintendents, and (3) forepersons or other supervisory persons with authority to hire, transfer, suspend, lay-off,

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recall promote, discharge, assign, reward, or discipline other employees or responsible to direct employees, or to adjust their grievances or effectively to recommend such action.

100. Regarding those supervisory persons described above as common to IMPERIAL and WALLDESIGN, identify their period(s) of employment with each company.
101. A. Identify if IMPERIAL personnel were ever authorized to supervise WALLDESIGN employees.

B. Identify if WALLDESIGN personnel were ever authorized to supervise IMPERIAL employees.
102. A. Identify by project involved, personnel involved, and date or event, any occasion when IMPERIAL personnel performed a supervisory function for WALLDESIGN.

B. Identify by project involved, personnel involved, and date or event, any occasion when WALLDESIGN personnel performed a supervisory function for IMPERIAL.
103. A. Identify IMPERIAL managerial personnel having authority to formulate and effectuate management policies or otherwise able to recommend or to exercise discretionary action within or even independently of established policy.

B. Identify WALLDESIGN managerial personnel having authority to formulate and effectuate management policies or otherwise able to recommend or to exercise discretionary action within or even independently of established policy.
104. A. Identify IMPERIAL representatives who have authority to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward or discipline supervisory personnel, or responsible to direct supervisory personnel, or to adjust their grievances, or effectively to recommend such actions.

B. Identify WALLDESIGN representatives who have authority to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward or discipline supervisory personnel, or responsible to direct supervisory personnel, or to adjust their grievances, or effectively to recommend such actions.
105. A. Identify IMPERIAL representatives otherwise actively involved with day-to-day management or operations.

B. Identify WALLDESIGN representatives otherwise actively involved with day-to-day management or operations.
106. A. Identify by title, and respective dates of employment, personnel of IMPERIAL ever employed by WALLDESIGN.

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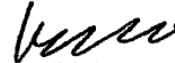
- B. Identify by title, and respective dates of employment, personnel of WALLDESIGN ever employed by IMPERIAL.
- 107. A. Describe IMPERIAL compensation program including employee wage rates.
B. Describe WALLDESIGN compensation program including employee wage rates.
- 108. A. Describe IMPERIAL fringe benefit program.
B. Describe the WALLDESIGN fringe benefit program.
- 109. A. Describe IMPERIAL labor relations policy.
B. Describe WALLDESIGN labor relations policy.
- 110. A. Identify IMPERIAL representative(s) who establish or otherwise control labor relations policy.
B. Identify WALLDESIGN representative(s) who establish or otherwise control labor relations policy.
- 111. A. Identify IMPERIAL labor relations representative(s).
B. Identify WALLDESIGN labor relations representative(s).
- 112. A. Identify IMPERIAL legal counsel on labor relations matters.
B. Identify WALLDESIGN legal counsel on labor relations matters.
- 113. A. Identify IMPERIAL membership status in the Associated General Contractors.
B. Identify WALLDESIGN membership status in the Associated General Contractors.
- 114. A. Identify IMPERIAL membership status in any other employer association.
B. Identify WALLDESIGN membership status in any other employer association.
- 115. A. Identify IMPERIAL officers.
B. Identify WALLDESIGN officers.
- 116. A. Identify IMPERIAL directors.
B. Identify WALLDESIGN directors.
- 117. A. Identify place(s) and date(s) of IMPERIAL directors meetings.

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- B. Identify place(s) and date(s) of WALLDESIGN directors meetings.
- 118. A. Identify IMPERIAL owners and/or stockholders.
- B. Identify WALLDESIGN owners and/or stockholders.
- 119. A. Identify the ownership interest held among IMPERIAL owners and/or stockholders.
- B. Identify the ownership interest held among WALLDESIGN owners and/or stockholders.

Please provide this within 10 days.

Sincerely,



David A. Rosenfeld

DAR/dr/kts
129840/651602

Enclosure